Scott. II-27. -40,006—20-12-38.

Home Department (1939) Department.

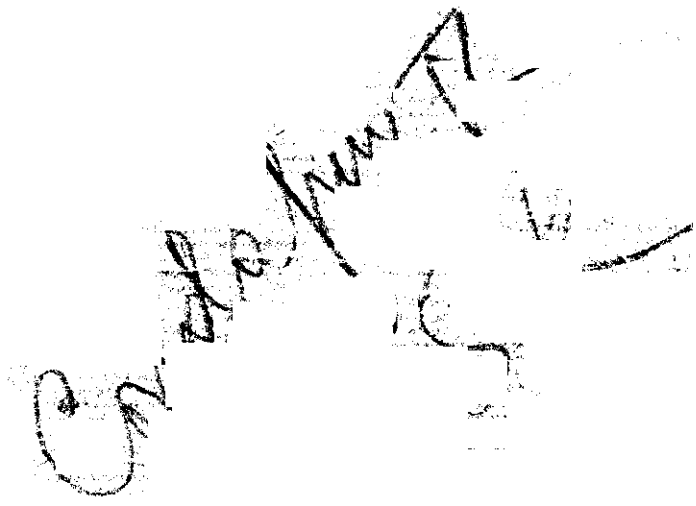
B. SERIES.

G.O. No. 1207

Dated 2-5-39

[Despatch Abstract.]

Fisheries - Memorial against stoppage of increment - Fernandez, L. Teacher, - Rejected.



OFFICE OF THE INSPECTOR OF FISHERIES
23 MAY 1938
MANGALORE

From

L. Fernandez,
Teacher, Fisnerries School, Navunda,
Kirimanjeshwar Post: Coondapur Taluk
South Kanara District.

OFFICE OF THE INSPECTOR OF FISHERIES
13 JUL 1938
MANGALORE

To

~~The Hon'ble Minister,~~
The Secretary to the Govt: of Madras,
Development Department,
Fort St. George, M a d r a s.

Through

The proper channel,

OFFICE OF THE ASST. D.
30 MAY 1938
3106-D/38
CALICUT

Subject: Calicut(Coast) Assistant Director's D.Dis 2328/F/37 dated 10-12-37 and Directors' D.Dis 232/C/38 dated 17-3-38 -Teacher L.Fernandes-punishment submitted.

Sir,

1. The memorialist most humbly begs to bring the following for your kind consideration and redress.

2. The memorialist is a teacher, serving in the Navunda Fisherries School, Coondapur Taluk, South Kanara District. On 19-2-37, the memorialist applied for 5 days casual leave for sickness and was forced to absent himself from duty on the 19th, 23rd, 24th, 26th and 27th, February 1937. His casual leave application was presented to the headmaster, at 9- a.m. when the morning session commenced on 19-2-37, through a pupil of the said school which runs as follows. "I most humbly beg to represant that when I was going to Ganguli to get some samans I met with an accident at the 63rd mile stone at the Steep discent with a result that I had two wounds, one just above and another below my left eye. I had also deep wounds at the left waist at the joint, at the ankle of the left hand and at the knees of both the legs. The wounds at the waist have swollen and I am not able to wear dress properly. Further the treatment I had for the eye from the local Pandit did not give me any relief. The oozing of the water from my left eye is still on the increase and also the pain. Yesterday night I had high fever due to the pain all over my body and I am badly in need of better treatment of my eye by an eye specialist. Therefore I may kindly be granted casual leave on the 19th, 23rd, 24th, 26th and 27th of February 1937 for treatment and rest."

3. It may be kindly noted that the memorialist had given a vivid description of the wounds, trouble in the left eye, the fever due to pain, the unsucc-essful treatment by the native pandit, the necessity of better treatment and such other things.

4. The alleged cycle accident took place on 15-2-37 in the evening and the memorialist had stated this in his statement dated 25-9-37. So it is clear that the memorialist had worked only one day on 17-2-37 after the accident before he went on leave, the 16th and 18th being holidays. Still the Assistant Director in the above cited punishment order stated in para 5 that "it is higuly improbable, he had several deer wounds, as stated by Fernandez would have been able to attend the school immediately after it for three continuous days, 16th, 17th, and 18th February". It may kindly be noted that the memorialist did not attend school immediately after the accident as stated by the Assistant Director, but one and half day's after the fall. Further the pain in the wound is not felt immediately after the accident but a day or two later, specially when the treatment was bad. Puss was formed in the wounds one or two days later. This increases the pain, the temperature and sleepless-ness and to know this does not require medical opinion. Unfortunately this was the experience of the memorialist on the night of 18-2-37 and the next morning the memorialist was not able to move or wear dress properly. So he was forced to apply for leave and place himself under the treatment of a Rural Government Registered Medical Practitioner at Ganguli who was the only qualified Doctor between Ganguli and Baindoor rivers within a radius of 8 miles and was forced to absent himself from duty.

The Inspector ordered the memorialist to produce a medical certificate and the memorialist produced it from the Ganguli Doctor. Therafter the Inspector and Assistant Director arrived at the school for annual inspection and without any notice of holding an enquiry held one on the spot. The memorialist was not aware then whether it was an enquiry on casual leave application or for any other purpose. The statements of two teachers were also taken down and the Assistant Director was watching the proceedings from a distance.

6. On 24.6.37 the Assistant Director framed a memo of 4 charges on the enquiry held by the Inspector on 6-3-37. They are as follows:-

para 6 p 57 Z (P)

(i) That he absented himself without leave on 19th, 23rd, 24th, 26th and 27th Feb. 1937,

ii) that he falsely represented that he was involved in an accident in support of his application for casual leave on the above dates,

iii) that he applied for casual leave with the object of assisting his father in canvasing votes for getting a recognition by District Educational Council of a school not recognised by the Sub Assistant Inspectress and with this object he visited Mangalore on 27-2-37 and concealed the fact from the Inspector,

(iv) that he used improper and insubordinate language towards the Inspector in his explanation dated 2.3.37,

pp 59-77 Z (P)

7. The memorialist submitted his explanation on 9-7-37 for the charges stating therein the circumstances under which he was compelled to apply for leave and absent himself from duty. Later on the meorialist was ordered to go over to Calicut to the Office of the Assistant Director of Fisheries where he was examined once more before Mr. Raman Menon, Headmaster of the Fisheries Training Institute, Calicut, on 29-11-37. In the end the Assistant Director dropped the last two charges as not proved. The first two charges are inter-dependent and the Assistant Director, stating that they are "to be deemed as proved awarded the following punishment. A teacher is expected to set an example to his pupils. In the present case teacher L.Fernandez left his place of duty without leave and applied for leave on false pretexts of having had an accident. He has failed in his attempts to make out that he had several wounds on the body and that he came to Mangalore to consult Doctors. His delinquencies required the award of deterrant punisnments. I therefore order that the increament of L.teacher L.Fernaandez be stopped for two years, the stoppage to have the effect of postponing future increments. The absence of Fernandez for 11 days from 18-2-37 to 28-2-37 will be treated as absent without leave."

p 126 and pp 129-130 Z (P)

Items (iii) and (iv) above B pp 152 and 154

para (3) pp 154-155 Z (P)

pp 142 and 145 Z

8. The memorailist thereupon submitted an appeal to the Director of Fisheries, Madras praying to set aside the order of the Assistant Director.

pp 1-15 Z

pp 232-238 (G)

The Director of Fisherries, in his memo D.Dis No. 232 C-38 dated 17-3-38 and that of the Assistant Director in endorsement D:Dis 72/F/38 dated 20-3-38 ordered that the stoppage of increament for a period of two years will not have the effect of postponing future increments.

9. The memorialist begs to state that the above-mentioned charges against him are neither proved nor are they to be deemed as proved, as stated by the Assistant Director. The Assistant Director came to this conclusion, only on indefinite grounds and incorrect evidence.

10. In the first place, the memorialist was under the treatment of a native pandit Subba Karvi by name who was the only physician available in that rural place and this was immediately after the fall. With the wounds he attended theschool for one day and this is mentioned by the headmaster in his statement. On the 18th night the meorialist had more pain owing to the wounds and also water was coming out of his left eye. Therefore in order to prevent further complication the only course left for the memorialist ~~is~~ was to apply for leave and avail himself of better treatment. The memorialist mentioned this in his casual, leave application. On 19-2-37, the meorialist placed himself under the treatment of the Rural Government Doctor at Ganguli. There was no other Local Fund or Government Doctor and therefore the memorialist had to be under his treatment for some time. When the Inspector demanded medical certificate, a certificate was duly submitted wherein it was certified that ~~he~~ the meorialist was in need of 10 days leave for rest and treatment of the wounds. Therefore the Assistant Director's remarks in para 6 of the punishment order " it is clear that he had to pay the doctor for the medical certificate because he was not under his treatment;" is not justifiable specially because he is private doctor. Further there was no other course open for the meorialist and there is no justification if this certificate is not accepted. There is also no justification in ordering him to submit a medical certificate to which no importance can be attached.

11. Secondly Mr. U. Chandappa in his statement dated 6-3-37 before Inspector, said on the 17th February he had told me, I remember now he had some slight pain in the

"the leg" and in his evidence before the Assist -ant Director on 25-9-37 said " In my statement dated 6-3-37 I told the Inspector that Fernandez had come to the school wearing a mundu" and that " Fernandez showed two scares one below the left eye and another at the left elbow" and that " Fernandez came with a mundu only on 17-2-37" It may be noted that the headmaster admitted that he had been informed of the pain in the leg on the 17th. It may be noted that the meorialist's customery dress was a katcha and not a mundu and the headmaster clearly stated that the memorialist had come wearing a mundu only on 17-2-37". It means to say that there were wounds and the memo--rialist was unable to wear katcha on that particular day.

12. After all the headmaster saw the memorialist one and half day's after the accident in the class room for a few hours only on 17-2-37. Next he saw the memorialist on 1-3-37 when he rejoined duty.

13 The headmaster in his statement before the Assistant Director on 25-9-37 said " in my state -ment dated 6-3-37 I told the Inspector that Fernandez came to the school wearing a mundu." It may be noted that the Inspector on 6-3-37 had not taken down such important statements as these and did not allow the memorialist to prove his case. It may also be noted that the memorialist was not given an opportu--nity to cross examining the parties then and there only.

14. As regards the statement of Mr. U. Thaniyappa o importance can be attached as he admits that he was far away on leave even prior to the accident and sawa the memorialist on 1-3-37 when he rejoined duty.

15. Thirdly the memorialist in his explanation 6-3-37 to the Inspector stated that "I could have more conveniently shown the wounds to the Inspector in person. I can do this even in future as the wounds have created permanent marks." It may be noted that of the many wounds, the memorialist showed

Inspector, nine wounds and marks of wounds at the very beggining on 6-3-37. If the Inspector and the Assistant Director on 6-3-37 did not find any marks of the accident, the meorialist could have been ordered to appear before a Medical Officer for verifi- cation.

16. Then again the memorialist after four months in his explanation dated 2-9-37 to the Assistant Director stated that the Inspector on 6-3-37 had seen all the wounds in his person and all these he noted down in his statement after seeing all the wounds and scars. "If the Inspector is now ø kindly ordered to have -- another examination of his body, he would find that the wounds that he saw on 6-3-37 have completely disappeared which proves beyond doubt that he had an accident and wounds and scars existed on and prior to 6-3-37."

17. It may be noted that the memorialist offered to show a marked difference in the wounds and marks of wounds he had. Yet the Inspector was not ordered to examine his body. It may be noted that the memorialist was examined personally by the Assistant Director on 25-9-37 after submitting this written statement. But the Assistant Director never gave the memorialist an opportunity to prove his case in this way.

18. Then again the memorialist in his explanation dated 30-10-37 in the last but one para stated that "of the nine wounds and scars I showed to the Inspector on 6-3-37 and two between 6.3.37 and 24-6-37 only one scar at the left elbow that I showed to the Assistant Director on 25-9-37 exists faintly. All the rest have completely disppeared leaving no marks or scars. Therefore as stated in my application dated 9-7-37 I once again pray the Assistant Director to order the Inspector to examine my body once again to find out whether the wounds and scars the Inspector saw on 6-3-37 and between 6-3-37 and 24-6-37 are still there as this will be the strongest evidence to show that I had wounds and scars before and after 6-3-37 and whether I was really involved in an accident."

19. It may be noted that even after submitting this written prayer the memorialist was ordered to go over to Calicut for another personal enquiry by the Assistant Director which was conducted on 29-11-37. On his way to Calicut the memorialist could have been conveniently ordered to appear before a Doctor or the D.M.O. Mangalore or even Calicut if the Assistant Director thought that the memorialist had no accident and no wounds and marks of wounds on his body as stated by the memorialist. Atleast at the time of the personal enquiry on 29-11-37 the memorialist could have been given an opportunity to show the different stages and changes of the wounds he had. It is most unfortunate that no opportunity was offered to

him in spite of his repeated prayers from 2-3-37 and though several enquiries took place afterwards. The doctor is a stranger to the memorialist and had not consulted in February or in any other time.

10. Therefore in view of the strong clenching evidence the memorialist most humbly begs to state that the charges one and two are not proved nor can they be deemed as proved. There is enough of evidence to show that the memorialist was ill and it compelled him to apply for leave and the necess-ity of for absenting him from duty is proved beyond all doubts.

As regards the letter from Combind Booking Agency, received by the Assistant Director no-importance can be attached. Mail is carried by bus to Mangalore by two lines via Karkal and Moolky. The distance by the former is 57 miles and by the latter 36 miles. The letter does not state by which line the mail arrived at Mangalore at 4.30 p.m. and what time it started from Udipi to reach Mangalore at 4.30 p.m.

The memorialist in his statement he started from Udipi at 12 o'clock and the enclosed letter from the Combined Booking Agency clearly shows that it requires only 3½ hours to travel by Moolky line by which the memorialist performed his journey. So it is clear that it does not require more than 3½ hrs. to travel from Udipi to Mangalore by Moolky line.

23. There have been slight discrepancies in the statement of the memorialist as regards time and date owing to lapse of time and mainly due to forgetful-ness. Moreover the memorialist did not expect to have his enquiry and did not note down correct time.

24. Fourthly Dr. P.G.Achar an eye specialist in his letter to the Assistant Director, wrote, "I remember of having examined one Mr. Fernandez some time ago. But he has not paid my consulting fee." When the memorialist received a punishment order from the Assistant Director, he wrote to the same Doctor inquiring him whether the memorialist had not consult-ed him on 27-2-37 for his eye trouble. For it Dr. P.G.Achar " my dear Mr. L.Fernandez, I had replied your officer long ago. I had no correspondence from him since then. You may produce this letter to your

8 — 10 — 70.

officer and tell him that you consulted me about the last week of February. If your officer requires any further details, I am prepared to furnish the same on his sending me a requisition letter with my fees." It may be noted that in both these letters says that the memorialist consulted him. The original letter may be called for from the Director's office.

25. At this time the memorialist addressed another letter to Dr. Prabhu, Mangalore. He replied as follows on 31-12-37 "your letter. I remember to have seen you for some eye trouble as the result of an accident some months back. I regret I am unable to supply you the date on which I saw you as I have no records of the same." It may be noted that this Doctor also states that the memorialist had an accident and eye trouble, and that he consulted him. It is from this Dr. Prabhu that the memorialist produced a certificate when he was ill in 1936 to the Assistant Director and it is this Dr. Prabhu, that had his office in the same building as the bus office. The original letter may kindly be called for from the Director's office. These doctors were not examined at their places though the memorialist petitioned on 14-9-1937. The memorialist in his statement before the Inspector on 6-3-37 stated that he was on duty after the accident on th 16th and 18th February 1937 in spite of the fact that 16th and 18th were both holidays. In the same statement the memorialist had also stated that Mr. Thaniyappa saw him in school with the wounds on the 15th, 16th 17th, 18th February 1937 in spite of the fact that Mr. Thaniyappa had gone to Udpi on casual leave on all these days. All this was done by forgetfulness and nothing else.

26. As regards the charges 3 and 4 the Assistant Directors admits that the charges are not proved against the memorialist and the memorialist is not punished under the charges.

27. The motive for applying for casual leave was not to canvas votes in the District Educational Council as alleged the A.D.C. It may be remembered that the Dt. E.Council is located in Mangalore City which is more than 68 miles from Navunda. The agenda of the Dt. E.Council was prepared and signed by the President of the D.E.Council, on 20-2-37. The information could have been reached the memorialist at the earliest on 21-2-37 in the evening. But the memorialist

4

applied for leave on 19--2-37 in the morning nearly three days earlier. It may be noted that there is absolutely no necessity to proceed on leave 9 days in advance when the council was to meet only on 27-2-37. The memorialist also begs to state that the question of his father's school did not come up for discussion on 27-2-37 as alleged by the A.D.C but was decided favourably in a subsequent meeting. The Assistant Director had referred to this agenda in the presence of the memorialist and Mr. E.Raman Menon also and this may be kindly called for from the Assistant Director's office in order to verify the statements of the memorialist. This will clearly prove that it was impossible for the memorialist to know of the proposed council meeting before the memorialist proceeded on leave. All this clearly proves that the meorialist did not visit Mangalore to canvas votes. It may kindly be noted that it is impossible for the memorialist to give or produce any stronger evidence under the circumstances.

28 The memorialist thereforemost humbly prays the Secretary to have pity on a poorly paid teacher of the poor children and set aside the Assistant Director's order which was partly set aside by the Director in his order D.Dis No. 232/C/38 dated 17-3-38, for which act of kindness and generosity the memorialist strongly assures to be more careful in applying for casual leave. As the memorialist has about 10 days casual leave to his credit in the year 1937, the absence may kindly be treated as leave on medical certificate and the salary of 11 days, which is cut for five days absence, may be paid.

I beg to remain
Sir,
Your most obedient servant,

Kirimanjeshwar Post:
South Kanara District
Dated 5th May 1938.

L. Fernandes
16/5/38

Attested

Submitted to the Inspector of Fisheries (W.S.) Mangalore.

Govt. Fisheries School Kowunda. Dated 20/5/38

Chandappa
Headmaster

Endt of no 304/38 — 24/5/38

submitted to the Assistant Director of Fisheries (General)
Calicut

Illegible
26-5-38
Inspector of Fisheries
Mangalore

THE

COMBINED BOOKING AGENCY,

MANGALORE.

CAR STREET.

Ref. No. G.C.30/38 13th April 1938.

L. Ferandes Esq.,
Kirimanjeshvara,
South-Kanara.

Dear Sir,

We are in receipt of your letter dated 17th inst., and in reply we wish to inform you that the approximate time required to travel from Udipi to Mangalore by our Coast Line bus is 3½ hours, which may kindly be noted.

Yours faithfully,

Joint Managers.

Ms 1552 12

C.F. 30.

Fisheries **DEPARTMENT.**

Received ..... 19 *Registered* ..... 19 .

Subject.

26637

Establishment - L. Fernandez - Teacher - Memorial.

ENCLOSURES.
No. .....
.....
Spare copies .....

No. 2232-C/38--1.

Station Madras, *Dated the* 1st October, 1938 .

From (Name) Diwan Bahadur Dr. B.Sundara Raj, M.A.,Ph.D.,

(Designation) Director of Fisheries.

To The Secretary to the Government of Madras,

Development Department.

Sir,

Ms 3-11 Grantm

I enclose herewith a memorial to Government from L. Fernandez, a teacher in the Fisheries School at Navunda against the orders of the Assistant Director of Fisheries (Coast) D.Dis. No. 2328-F/37 dated 10-12-1937 and my order D.Dis. No.232-C/38 dated 17-3-1938 on his appeal.

Ms 134-1553 A.D.(C) Ms 2328 F/37 10.12.37 (P)

Ms 253 D F's Ms 232-C/38 17.3.38 (G)

2. The memorial is on the lines of the appeal submitted by the teacher to me. So I enclose a copy of the Assistant Director of Fisheries' Endorsement No.72-F/38 dated 19-1-1938 forwarding the appeal to me. The Assistant Director of Fisheries has explained at length the various points referred to in the petition.

Ms 1552 (G)

17-21 Ms 11+8 w/cm

3.11 Ms Grantm

3. The Assistant Director of Fisheries had ordered that the increment of the teacher to be stopped for a period of two years, the stoppage to have the effect of postponing future increments. The punishment awarded by the Assistant Director was not only for absence without leave but also for false representation. It was clear from the evidence recorded that the teacher absented himself from the school under a false pretext of having met with an accident. To make his co-teachers and his superiors believe that his absence was due to the accident he had to give a series of false statements. Such dishonesty on the part of a teacher is reprehensible and he had to be punished sufficiently to prevent any repetition of such conduct. I upheld the punishment ordered by the Assistant Director of Fisheries (Coast) with the modification that the stoppage of increment was not to have the effect of postponing future increments.

4. In the last paragraph of the memorial the memorialist complains that pay for eleven days has been refused for an absence of only five days. Though the working days were only five he had applied for eleven days leave which was refused.

5. I have no recommendation to make on behalf of the memorialist.

I have the honour to be,

Sir,

Your most obedient servant,

for Director of Fisheries.

t.a.r.4.10.

46-7-44 14

Copy of Endorsement No. 72-F/38 dated 19-1-1938 of the Assistant Director of Fisheries (Coast), Calicut, on the appeal submitted by L. Fernandez, Teacher, dated 7th January 1938

Submitted to the Director of Fisheries.

pp 1-15 g (G)

2. In para 2 of the appeal petition, the appellant states that he had given "a vivid description of the wounds" etc. The lucidity of the description cannot be considered a proof of the alleged accident. On the other hand it might have been done intentionally to make out that there was a real accident.

pp 3-4 g (G)

3. In para 3 the appellant attacks my statement that the alleged accident, if true, would not have allowed him to attend school for three continuous days on the 15th, 16th and 17th February. The appellant's statement before the Inspector on 6-3-37 was that he was on duty from the 15th to 18th - vide para 20 of the appeal petition. Whether he attended school on those days or not, it does not materially affect my findings. Though Fernandez stresses on the deep wounds he had and the scars left by them, none of his colleagues in the school nor the Inspector of Fisheries who examined him has testified to this effect. The scars if any that are left may have been there much longer. Any one would have scars as a result of accidents sustained in childhood or later.

pp 14-17 g (G)

pp 12-13 g (G)

p 4 g (G)

4. In para 4 the appellant complains that the Inspector held an enquiry without giving him notice. No notice could be given before an investigation was held to find out if charges should be framed. Regular charges were framed by me on 24-6-1937 and after giving him due notice a formal enquiry was held by me on 25-9-37. Fernandez has stated that at the Inspector's enquiry I was "watching the proceedings from a distance". The statement is false. I was inspecting the records of the school when the Inspector was holding his investigation.

pp 51 52 g (P)

pp 105-108 g (P)

p 4 g (G)

pp 6-7 g (G)

5. In para 8 the appellant shows resentment at my statement that he had to pay the doctor for his medical certificate.

When the Inspector called for a medical certificate in support of the casual leave applied for, there was no need for the teacher to protest against it if he ~~he~~ was already under the treatment of the particular doctor.

pp 12-13 g (P)

6. In para 9, great emphasis is placed on the wearing of a 'mundu' instead of the usual 'katcha' on 17-2-37. The particular change of dress only shows that Fernandez intended to absent himself on the plea of illness.

pp 7-8 g (G)

7. In para 10 the appellant quotes the Headmaster as saying that he (Fernandez) had told him of having some slight pain in the leg. The Headmaster evidently did not feel that Fernandez was ailing, but had to be told so. And the nature of the ailing as the result of "several deep wounds" was only "a slight pain in the leg". Fernandez has failed to make out that he had any illness preventing him from attending school for several days.

p 8 g (G)

8. In para 12, the teacher deals with the wounds and the "permanent marks" created by them. The Inspector to whom the wounds are said to have been shown does not refer to the fact. The statement is evidently false.

pp 9-10 g (G)

9. In para 15 of the appeal, Fernandez has produced copies of letters received from Dr. P.G.Achar and Dr. M.S. Prabhu. On 7-10-37 I had asked him to produce certificates from the doctors that he stated he had consulted. The straight course for him was to produce the certificates before the close of the enquiry, especially as he had been asked to appear before me at my office on 29-11-37. The letters produced do not show either that Fernandez was so bad that he required leave or that he consulted the doctors on the dates in question. If he wanted their certificates, he had plenty of opportunities to do so before the punishment was awarded. No value need be attached to these letters as they do not adduce conclusive evident that he was in need of casual leave and any evidence gathered ~~thaixhaxxaaxxinxaaaa~~ after the punishment is awarded cannot be considered.

pp 10-11 g (G)
pp 17 & 18 g (G)
p 104 g (P)

pp 17 & 18 g (G)

~~49~~ ~~46~~ 16
~~38~~ ~~48~~

pp 11-12 g (A) p 113 g (P) p 103 g (P)

10. In para 18 the appellant tries to make out that the letter of the Combined Booking Agency is of no value. On 3-10-37 I had written to the Agency to inform me when the mail bus from Coondapoor arrived at Mangalore. The Agency informed me that the mail bus from Coondapoor used to arrive at Mangalore at about 4.30 P.M. in the month of February 1937. When Fernandez was examined by me on 29-11-37 he at first confirmed his statement that on 27-2-37 he arrived at 3 P.M. at Mangalore by the mail bus from Udipi. When the letter of the Booking Agency was shown to him, he was ingenious enough to explain that he travelled via Moolky. He stated: "I cannot explain why the bus office says that the mail bus arrived at 4-30 P.M. I cannot say if the bus that I took from Udipi to Mangalore via Moolky is called mail bus". This explanation speaks for itself. A man travelling from Navunda by bus cannot arrive at Mangalore by any route at 3 P.M. The mail bus arrives at 4-30 P.M. and the other bus not earlier than 4 P.M. The teacher would have come to Mangalore by the mail bus only, on some day earlier than 27-2-37. Only thus he could have been present in the District Educational Council hall earlier than 2 P.M. on 27-2-37 as deposed by Mr. Raman Menon. His statement in para 19 that the average speed of the bus by the Moolky route is 18 miles an hour is incorrect. The average speed from Udipi to Mangalore on any day is never more than 14 miles per hour. His statement in para 20 that buses other than those which carry mails are popularly called mail buses is false.

p 113 g (P) p 129 g (P) p 113 g (P) p 130 g (P) p 131 g (P) p 12 g (A) pp 12-13 g (A)

11. In para 20 of the appeal Fernandez speaks of certain 'slight discrepancies' regarding time and date. There are, on the other hand, material discrepancies.

p 13 g (A)

12. Para 22 of the appeal is another stroke of ingenuity on the part of the appellant. When examined by me, Mr. E. Raman Menon stated on 29-11-37: "The question of the withdrawal of the recognition of his (Fernandez') father's school

p 13-15 g (A) pp 131-132 g (P)

18

Educational Council, deposed before me on 29-11-37 that he had met Fernandez on 27-2-37 in the Council hall earlier than 2 P.M. Fernandez would not cross-examine Mr. Raman Menon, and in para 19 of his appeal he still states that he reached Mangalore at 3 P.M. on that day.

14. No other points raised in the appeal deserve comment. The appeal may be rejected.

~~14~~ 19
~~22~~

Proceedings of the Assistant Director of Fisheries (Coast) Calicut D.Dis.2328-F/37 dated the 10th December, 1937.

Education - Establishment - Teacher L.Fernandez
Misbehavious - punishment.

Read:-

(1) Letter Ref.No.319/37 dated 29-5-37 of the Inspector of Fisheries, Mangalore.
(2) My Proceedings No.2328-F/37 dated 24-6-37.
(3) Explanation dated 9-7-37 of L.Fernandez.
(4) My Memo.No.2328-F/37 dated 7-10-37; and
(5) Explanation dated 30-10-37 of L.Fernandez.

On 19-2-37 L.Fernandez, Assistant teacher, Navunda Fisheries School, applied to the Inspector of Fisheries, Mangalore for 5 days casual leave on the 19th, 23rd 24th, 26th and 27th February along with 5 holidays on the 20th, 21st, 22nd, 25th and 28th idem. The reason given in the application was that he had an accident while cycling, which resulted in "deep wounds at the waist on the left side, on the elbow of the left hand and on the knees of both the legs". As the teacher was in the habit of applying for casual leave on frivolous grounds, the Inspector asked him to produce a medical certificate. The teacher produced a medical certificate and while submitting it on 2-3-37 made the following remarks:-

"This is really a hard lot for a poor teacher who is already incurring a heavy pecuniary loss of over Rs 15 per mensem for no fault on hisp part. Moreover it is very difficult in these remote villages to go to the medical men for certificates for casual leave. I could have more conveniently shown the wounds to the Inspector in person. I can do this even in future as the wounds have created permanent marks. Further no officer would require me to work with so many wounds on my body, however cruel he may be"

2. On 6-3-37 the Inspector examined L.Fernandez, U.Chandappa the Headmaster of the school and U.Thaniappa, another Assistant teacher. Fernandez deposed that the accident he had was on 15-2-37 that he attended the school on four days, that since he had fever on the night of the 18th he applied for leave from 19-2-37 and that the other two teachers had seen the wounds on his body. Questioned as to what he did during the 10 days of leave, Fernandez stated that he was at Navunda in his lodge except on the last two days and that on the 27th and 28th February he was in his native place at Udayavar.

He further stated; "From the 27th afternoon to 28th afternoon while I was at Udayavar I did not go anywhere else leaving my house and from Udayavar I returned to Coondapoor on the 28th evening". He also stated that he did not go to Mangalore from 19-2-37 to 28-2-37 for treatment. In the course of further examination, however, Fernandez confessed that on the evening of 27-2-37 he saw Mr.E.Raman Menon, the Headmaster of Fisheries Training Institute, at Mangalore when the latter went there to attend the District Educational Council meeting. By way of explanation he stated as follows:-

"I went to Mangalore on the 27th and returned from Mangalore on the 28th and I had gone there to see whether there is anything wrong with my eye due to accident"

One other correction he made was to this effect:-

"The fall I had was on the 14th and~~n~~ not on the 15th as stated first by me"

This evidently was intended as an explanation for the other teachers of the school not seeing him on the date of the alleged accident, the 14th being Sunday. The Headmaster in his statement asserts that Fernandez was on duty till 17-2-37, that he did not notice any wound or injury on his body, and that Fernandez did not tell him that he had a fall. Assistant teacher U.Thaniappa's statement is to the effect that he was absent from the school after 13-2-37 till 18-2-37 and that he did not see wounds on the body of Fernandez caused by the alleged fall from bicycle.

3. That Fernandez had to take leave on account of a fall from his cycle is obviously false. His taking leave and coming to Mangalore was probably to canvass votes for his father who is running a Girls' School at Udayavar. The school had not been recommended for recognition by the Sub Assistant Inspectress and the matter was coming up for discussion at the meeting of the District Educational Council according to the agenda. The Headmaster, Fisheries Training Institute who went to Mangalore to attend the meeting of the District Educational Council, had seen L.Fernandez and when the Inspector questioned Fernandez if this was not so, Fernandez who had concealed the fact at first had to confess that he did go to Mangalore.

4. On 24-6-37 I framed the following charges against teacher L.Fernandez:-

(1) That he absented himself without leave on the 19th, 23rd 24th, 26th and 27th February 1937.

(2) That he falsely represented that he was involved in an accident, in support of his application for casual leave on the above dates.

(3) That he applied for casual leave with the object of assisting his father in canvassing votes for getting recognition by the District Educational Council of a school not recommended for recognition by the Sub Assistant Inspectress and with this object he visited Mangalore on 27-2-37 and concealed the fact from the Inspector.

(4) That he used improper and insubordinate language towards the Inspector in his explanation dated 2-3-37.

5. In his explanation dated 9-7-37 Fernandez states in respect of the first charge that he went on leave from 19-2-37 as ill health prevented him from attending to his duties or freely moving about. He did not absent himself from duty immediately after the alleged accident, but only after 4 or 5 days. He says that on the night of 16-2-37 he had high temperature with pain all over his body and trouble in his left eye, which compelled him to go on leave after submitting a casual leave application. The reason stated in the application for casual leave was that he had "deep wounds at the waist on the left side, on the elbow of left hand and on the knees of both the legs". It is highly improbable that if he had several deep wounds, as stated, Fernandez would have been able to attend school immediately after it for 3 continuous days (15th, 16th and 17th February). The Headmaster of the school (U.Chandappa) when examined by the Inspector on 6-3-37 and by me on 25-9-37, stated that he did not notice any wound or injury on Fernandez' body and nothing peculiar in the manner Fernandez walked in the school. I consider that the reason given in the casual leave application is not credible. The charge of absence without leave has therefore to be deemed as proved.

6. As regards the second charge that Fernandez falsely represented that he had an accident in support of his application for casual leave, he explains that on 6-3-37 the Inspector had seen "all the wounds in my persone" and that the medical certificate obtained from a "qualified registered doctor" was sufficient evidence. In his letter dated 29th May 1937 the Inspector of Fisheries has reported to me that there was no sufficient reason for Fernandez applying for leave and that the reason given by the teacher in his leave application was false. If as stated by Fernandez he had placed himself under the ~~xxxxx~~ Doctor's treatment from 19-2-37 he would ~~xx~~ not have used the language referred to in para 1 and charge (4). It is very clear that he had to pay the doctor for the medical certificate because he was not previously under treatment. The medical certificate produced is therefore unreliable and cannot be accepted in the face of the clear statement of the other teachers of the school that there were no injuries on the body of Fernandez on the date alleged and subsequently. The charge of false representation for purpose of leave has thus been proved.

7. The third charge is that he went to Mangalore after applying for casual leave with the real object of canvassing votes on behalf of the recognition of a school run by his father. When examined by the Inspector on 6-3-37 Fernandez at first stated that he did not go to Mangalore during the period from 19-2-37 to 28-2-37. When the Inspector questioned him if he had not seen Mr.E.Raman Menon, the Headmaster of the Fisheries Training Institute at Mangalore on 27-2-37, Fernandez was obliged to confess that he had gone to Mangalore that day and returned the next day. He then stated that he saw Mr.Raman Menon on 27-2-37 at about 4-30 P.M. near the District Educational Council hall when the latter was on his way to the Meeting hall. The reason given for his journey to Mangalore is to see if anything was wrong with his eye "due to accident". In his explanation dated 9-7-37 Fernandez states that he consulted Dr.P.G.Achar of Udipi, Dr.Srinivasa Prabhu of Mangalore and Dr.

L.P.
Dr. Fernandez of Kankanady. If Fernandez went to Mangalore to consult more than one doctor on account of an eye trouble caused by an accident, it is incredible that he should have forgotten all about it when he stated before the Inspector; "I did not go to Mangalore for treatment during the period from 19-2-37 to 28-2-37". Dr.P.G.Achar has informed me that he remembers having examined Fernandez and that if his consulting fee and fee for the certificate are paid, he will find out from his books and give the necessary certificate. Though this reply was communicated to Fernandez, he has not obtained the certificate. The consultation may have been on a different date. Dr.Srinivasa Prabhu has informed me that he was not in Mangalore in February 1937. There may be another doctor of the same name. It is for Fernandez to produce his certificate. Dr.L.P.Fernandez has not cared to reply to my letter enquiring if teacher Fernandez had consulted him on 27-2-37. When I examined Fernandez on 25-9-37 he told me that he left Navunda on 27-2-37 by the first bus at about 7-30 A.M, arrived at Udipi at about 12 O'clock and after consulting Dr.P.G.Achar, left for Mangalore by the same mail bus, that he arrived at Mangalore at 3 P.M. and after consulting Dr.Srinivas Prabhu in the same building as the bus office, he saw Dr.Fernandez at about 3-30 P.M. and that from there he went to see his father and along with his father he left the District Educational Council hall at about 4-30 P.M. As regards seeing Mr.Raman Menon what Fernandez stated to me is that he saw him when he was coming out of the hall at 4-30 P.M and that his statement on 6-3-37 that he saw Mr.Raman Menon while going to the meeting hall was a mistake. That Fernandez came to Mangalore just to consult doctors as his left eye was giving trouble as a result of the alleged accident can hardly be believed. He states that he arrived at Mangalore by mail bus at 3 P.M. The Booking Agency of the Bus Service has informed me that the mail service used to arrive at Mangalore only at about 4-30 P.M. in the month of February 1937. There are grounds for the presumption that Fernandez applied for leave and came to Mangalore to canvass votes for the recognition

of the school run by his father. Mr.Raman Menon, who is a Member of the District Educational Council and whom I examined on 29-11-37 in the presence of Fernandez, states that Fernandez was in the Council hall when he entered it before the meeting commenced that day at 2 P.M. This gives the lie to the statement of Fernandez that he came to Mangalore only by the mail bus that day. Both Fernandez and Mr.Raman Menon have stated that the question of the withdrawal of the recognition of Fernandez father's school, which, according to Fernandez, "was reported to be a bogus school by the officers of the Educational Department", was in the agenda. Evidently Fernandez left Navunda earlier than 27-2-37 and came to Mangalore before the meeting of the District Educational Council commenced. The third charge may be presumed that I will not say it has been proved. I only refer to the circumstances to prove that the reason given in the casual leave application was false.

B/

8. The fourth charge is that he used improper and insubordinate language towards the Inspector in his explanation dated 2-3-37. In defence of this, Fernandez states in his explanation dated 9-7-37 that what he stated in his explanation dated 2-3-37 "might have to my ill-luck appeared to the Inspector and Assistant Director as couched up in improper language". He continues"if the language used by me is improper it is highly regretted. I am prepared to apologise if so ordered. I may again repeat that it was not my intention to use improper language and therefore I request Assistant Director to excuse me on this account" In view of this expression of regret I will not proceed further with it.

9. A teacher is expected to set an example to his pupils. In the present case teacher L.Fernandez left his place of duty without leave and applied for leave on the false pretext of having had an accident. He has failed in his attempts to make out that he had several wounds on his body and that he came to Mangalore to consult doctors. His delinquencies require the award of a deterrent punishment. I therefore order that the increment of teacher L.Fernandez be stopped for two years, the stoppage to have the effect of postponing future increments.

10. In the course of my enquiry I have found out that the total

period of absence of Fernandez is 11 days and not 10, since 18-2-37 was also a holiday. The absence of Fernandez for 11 days from 18-2-37 to 28-2-37 will be treated as absence without leave.

Copy of Proceedings of the Director of Fisheries, Madras, No. D.Dis. 232-C/38 dated 17th March 1938.

Establishment - Teacher - L. Fernandez - Punishment appeal.

Petition dated 7-1-38 from L. Fernandez, Teacher, Navunda Fisheries school; and

Endorsement No.72-F/38 dated 19th January 1938.

ORDER:

The charges proved against the teacher deserve exemplary punishment. The stoppage of increment with cumulative effect is however too severe a punishment for the offences. The punishment awarded is therefore modified. The stoppage of the appellant's increment for a period of two years will not have the effect of postponing future increments. The Assistant Director (Coast) is requested to communicate this to the appellant.

2. The appellant will take orders on his petition from the Assistant Director of Fisheries (Coast), Calicut.

Edn. Dept.

O.M. No. 26637 (11) 38-1926-11-38

Ref. D.F.'s letter no. 2232-938-19 I.Co.38. memorial. L. Fernandez, teacher.

The D.F. has now forwarded the original records connected with the memorial ~~referred to above~~ She is now requested to forward them for reference and return.

27/11

To the D.F. ✓

29/11

24/11

25/11

C.F. 80.

FISHERIES **DEPARTMENT.**

Received ..... 19 . *Registered* 19

Subject. For delay Please see flag (2)

Establishment - L.Fernandez - teacher - Memorial

ENCLOSURES.
No. 2 file
Spare copies

No. 2232-C/38-3

Station Madras., *Dated the* 1st December, 1938.

From (Name) Diwan Bahadur Dr.B.Sundara Raj, M.A., Ph.D

(Designation) Director of Fisheries.

To The Secretary to the Government of Madras,

DEVELOPMENT Department.

Sir, p.27 dup^h

Ref:Development Department Memorandum No.26637-V.I/38-1 dated 26th November, 1938.

--

The original records noted in the margin* are herewith sent.

(E) (G)
1. L.Dis.3653-C/37
2. D.Dis.232-C/38

I have the honour to be,
Sir,
Your most obedient servant,

B. Sundara Raj

Director of Fisheries.

sa.1/12

29

24
3/37

Dev. Dept

Letter No. 26637-I/38-2, d., 1.3.39

To

The Secretary,
Madras Public Service
Commission.

Sub:- Memorial of L. Fernandez
fisheries school teacher.

Sir,

I am directed to forward herewith the memorial referred to above against the orders of the Asst. Director of Fisheries (East), as modified by the Director of Fisheries, stopping the increment of the memorialist for two years together with the remarks thereon of the Director of Fisheries and the connected records and to request the opinion of the M.P.S.C. as to the orders to be passed on the memorial.

pp. 1-9 c.f.

p. 25 of (G)

pp. 12 & 37 f.

I have etc.

13/3

P.S.
28.2.39.

28/2/39.

Enclosures.

1. pp 1-26 cf.
2. D.F.'s tel. DDis No 232-C/38. d. 17.3.38.
3. A.D. (Coast)'s tel. DDis 2328-H/37 d. 10.12.37

Confidential.

Public Services Commission

C.F. 30.

DEPARTMENT.

7459

Received ..... 19 . *Registered* 19

Subject.

Memorial - Fernandez, L. - Fisheries School Teacher -
Against withholding of increment -

Enclosures.
No. .....
.....
Spare copies .....

No. 327-C/39.

Station Madras, *Dated the* 10th March 1939.

From (Name) Sri Rao Bahadur C.P.Karunakara Menon,
(Designation) Secretary, Public Service Commission, Madras,

To The Secretary to the Government of Madras,

Development Department.

Sir,

Your letter No.26637-1/38-2, dated 1-3-1939.

I am directed to invite attention to G.O.No.444, Public (Services), dated 30-4-1934, and to request you to send the personal file of the memorialist.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary. 11.3.39

T.11.3.

From

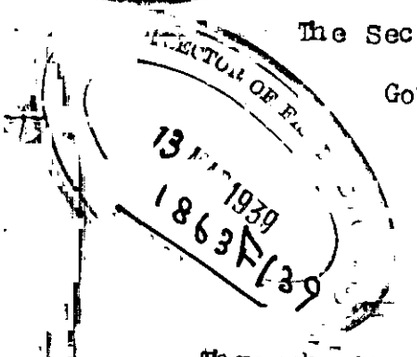
L. Fernandes,

Teacher Fisheries School,

Navunda,

Kirimanjeshvar P.O.

South Kanara.



The Secretary

Govt. of Madras,

Development Dept.,

Fort. St. George,

Madras.

Through

The Proper Channel,

Sub:-My memorial dated 15-5-1938 submitted to the Secretary to setaside Asst. Director's D. Dis. 2328-F-/37 dated 10-12-37, which is partly set aside by Director's D.Dis. 232-C-/38 dated 17-3-38.

Sir,

I mostly humbly beg to submit that on 15-5-38 I have submitted a memorial to set aside Asst. Director's punishment order D. Dis. 2328-F-/38 dated 10-12-37, which is partly set aside by the Director's D. Dis 232-C-/38 dated 17-3-38, to grant the withheld hard earned increments including the salary of eleven days of the month of Feb. 1937 and also to grant the ten days casuel leave with five holidays and five working days from 19-2-1937 to 28-2-1937,

P.T.O

and that so far I have not received any orders.

ASSISTANT SECRETARY TO GOVERNMENT
28 MAR 1938
DEVELOPMENT DEPARTMENT

It may be kindly be noted that the memorialist presented the casual leave application on the 19-2-37 and absented from 19-2-37 to 28-2-37. The memorialist further begs to represent that he never availed of 18-2-37 as he was unable to stir out from the head quarters due to his illness. And this the memorialist has proved by giving clear evidence. Hence the total absence was only 10days and not 11 days. The memorialist also begs to represnt that he has enough of casual leave at his credit in the year 1937. It may also be kindly noted that the memorialist had no such unpleasant instance any time prior to this or after this till to-day

Rs 28/July

As the memorialist is drawing a most meagre salary in spite of his nearly eleven years service, long periods of training and high qualification, the memorialist humbly draws attention of the Secretary to have pity on the most miserable condition of the teacher of poor children and pass favourable orders as early as possible for which active of kindness and generosity the memorialist strongly assures to dis charge his duties to the entire satisfaction of all his superiors

I beg to remain,

Sir,

Your most obedient Servant,

Navunda (
5-3-1938)

L. Navunda
6/3/38.

P. P. O.

Endt. N. Ref. 2232 C/38 dated 25/3

Forwarded in continuation of my letter to Govt. No 2232 C/38-1 dated 1st October 1938.

9135

B. Sundara Raj
Director of Fisheries

To The Secretary to Government,
Development Department

DD 21/3/39

25

29
3/4

dl 5/4/39.

notes with cord dl 6/4

Gen. Dept.

Letter No. 26637-I/38,3. dt. 5-4-39.

To

The secretary,
Madras Public Service
Commission.

Subj:- Memorial - L. Fernando
Fisheries school teacher.
Ref: your letter No. 327-C/39
dated 10-3-39.

p. 30 c.f.

Sir,

I am directed to forward herewith ~~the~~ personal file of the memorialist ~~and a supplement to the original memorial dated received~~.

attached

I have etc.

P.S.
3.4.39.

DEN
3439

dl
6/4/39

80

Public

Confidential.

12264

C.F. 30.

DEPARTMENT.

Received ..... 19 . *Registered* 19

Subject.

Memorial- Fernandez, L. - Fisheries School Teacher -
Against withholding of increment -

ENCLOSURES.
No. .....
.....
Spare copies .....

No. 327-C/39.

Station Madras, *Dated the* 26th April 19 39.

From (Name) Sri P. Koil Pillai,
(Designation) Secretary, Public Service Commission, Madras,

To The Secretary to the Government of Madras,
Development Department.

Sir,

Your letter No.26637-1/38-2, dated 1-3-1939.

The Commission considers that for the charges proved the punishment as modified by the Director is not excessive. It therefore advises that the memorial be rejected.

2. I am directed to point out to the Government the delay that has occurred in the consideration of this memorial. It was dated May 1938, the Director forwarded it after four months

months and it was referred to the Commission after a further delay of five months.

3. The records are returned.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary. 25.4.27

T.27.4.

List of records:

1. Memorial dated 16-5-1938 with enclosure.
2. Director's letter No.2232-C/38-1, dated 1-10-1938 with enclosures.
3. " file D.Dis.232-C/38 dated 17-3-1938.
4. Assistant Director's (Coast) file D.Dis.2328-F/37 dated 10-12-1937.
5. Personal file of the memorialist.

38

Dev Dept.

Fisheries. Memorial.
L. Fernandez. Stoppage
of increment.

Pp 1-11 Cf (From Mr. Fernandez dated 5.5.38)

Pp 12-13 Cf (From the D.F. No. 2232-C/38-1 dt 1.6.38)

To A.S.

Please see the memorial from L. Fernandez, a Fisheries school teacher, at Pp 1-9 Cf. and the D.F's remarks thereon at Pp 12-13 Cf.

Copy Pp 14-25 Cf

The Asst. D.F. (Coast) acted in his proceedings no. D.Dis 2328-F/37 dt 10.12.37 that the increment of the memorialist be stopped for two years with cumulative effect and that the absence of the memorialist for 11 days from 18.2.37 to 28.2.37 be treated as absence without leave on the following charges:-

Letter Pp 1-2 Cf

1) That the memorialist absented himself without leave on 19th 23rd 25th, 26th and 27th February 1937: and

2) That he falsely represented that he was involved in an accident, in support of his application for casual leave on the above dates.

Against the Asst. Director's order,

3/40

Dlw. Dft

To A.S.

The D. F. has now forwarded the records connected with the memorial of L. Fernandez at pgs 1-9 Ct and his remarks thereon at pgs. 12-13 Ct.

2. On his proceedings dated 10.12.37, the Asst. D.F. (Coast.) ordered that the increment of the memorialist be stopped for two years, the stoppage to have the effect of postponing future increments. The preliminary enquiry was conducted by the Inspector of Fisheries and the charge sheet was framed by the Asst D.F.Co The following charges were framed:-

(1) That the memorialist absented himself without leave on the 19th, 23rd, 24th, 26th and 27th February 1937;

(2) That he falsely represented that he was involved in an accident in support of his application for casual leave on the above dates.

(3) That he applied for leave with the object of assisting his father in canvassing votes for getting nomination by by the Dt. Dft is not recognised by the Sub. Asst. Inspectors, of a serious and with this object he visited Mangalore on 7.2.37

and Concealed the truth from the Inspector

(4) That he used improper and unbecoming language towards the Inspector in his explanation dated 2.3.57 — Pp 12-13 of (E)

The Asst. D.F. (Coast), in his proceedings, drafted the last two charges and based his findings on charges (1) and (2). — B mp. 152 and Fs mp. 15 & 16

The memorialist appealed to the Director of Fisheries who upheld the punishment ordered by the Asst. D.F. with the modification that the stoppage of increment should not have the effect of postponing future increments. — Fs 1-3, 5, 6, 232 to 238 (G), 17 3 38 — Vide Ps 25 of (G)

3. The records of the preliminary enquiry are at Pp 14-19 of (P)

The charge sheet is at Pp 51-52 of (P)

The explanation of the memorialist is at Pp 69-77 of (A)

From the references and ~~exhibits~~ documents and oral evidence, explanations are at Pp 88-89, 93-94, 104-108, (and 129-132) 114-122 of (P)

The proceedings of the Asst. D.F.

are at pp 134-155 of (P).

The appeal petition to the D.F. is at pp 1-15 of (G)

The proceedings of the D.F. is at p. 25 of (G).

4. Procedure The memorial contains the following allegations:

(1) That the deposition of Fishermis did not take down some important statements in the preliminary enquiry held on 6.3.37

B' mp. 5 Cl:

(2) That the memorialist was not given an opportunity to Cross examine the witnesses then and there

B' mp 5 Cl:

(3) That the Doctors cited by the memorialist as witnesses were not examined at their ~~this~~ places as requested by the memorialist

Cf. M' mp 8 Cl:

B mp. 73 of (P)

5. Item (1) above In the statement given by N. Chandappa, one of the witnesses before the Asst D.C. (Coorg), on 25.9.37 the witness stated "In my

statement dated 6.3.37 ⊃ the p 18 of (P)
the Inspector that Fernandez had
come to the school wearing a
mundu" The statement taken p 18 of (P)
by the Inspector on 6.3.37
does not, however, mention this,
~~contain the above evidence~~,
as alleged by the memorialist.
The Inspector states that he
recorded the statement of Mr. Chandatta 'A' in p 81 of P
in full without omitting any
part of it. ~~and~~ Under the instructions
issued regarding disposal of
disciplinary cases, it is the
record of evidence given by the 'A' in p 2 of
witnesses in the presence of Ex 275 Part V
the person charged (in examination 5 2 37 (F)
in chief and cross examination)
which should form the basis
of the proceedings against
him. The omission in the
statement referred to by the 'B' in p 5 of
memorialist relates to the
preliminary enquiry and A in p 107 of (P)
it was rectified (subsequently) at the regular enquiry.
The allegation does not therefore
seem to carry any weight.

Item (2) in para 4 on p 5 ante :- The

para 13 p 5 C1- memorialist refers to the oral evidence of the two witnesses, Sri. Chandappa the headmaster of the Narsinda School and Thimmappa a teacher in the same school. These two witnesses were

Hh 18-19 g (D) first examined by the Inspector in his preliminary enquiry on 6.3.37. The Inspector states that the statements

B on p 81 g (P) from these witnesses were taken in the presence of the memorialist and that the latter did not express his intention of cross examining them. The instructions issued in regard to the disposal of disciplinary cases

B on p 2 g
Gr 275 Cub Regs
5 2.37 (F) require that if witnesses have been examined in the presence of the person charged before the framing of charges, the latter should be given an opportunity, after the framing of charges of cross-examining the witnesses, even if he had already cross examined them before the charges were framed.

Hh 18-19 g (P) At the preliminary enquiry, the Inspector has not specifically recorded whether the memorialist was asked to cross examine the witnesses and if so, what his reply was. After the

Hh 51 52 g (D) framing of charges a regular enquiry

was held by the Asst. District on 25.9.37 Pp 107-108 & (P)
When these two witnesses were recalled and examined again. Here again there is no specific record to the effect that the memorialist was asked to cross examine these witnesses as has been done in regard to the evidence given by Mr. Raman Menon on 29.11.37. A / B at p. 132 & (P)

Attention is, however, invited to para 3 of Govt. No. 275 Pub (Sec) dt 5.2.37. (F)
A strict observance of the prescribed procedure is obligatory only when dismissal, removal or reduction is ordered. In the present case which involves only stoppage of increment, all that is necessary is that the person concerned should be given a reasonable opportunity to defend himself and this has been done. The defect at A[x] above need not therefore be deemed to have vitiated the enquiry. at p 5 ante

Item (3) in para 4 on p. 5 ante

The memorialist in his explanation dated 9.7.37 asked Pp 69-78 & (P)

for the examination of seven witnesses of whom four were doctors. The Asst. Director (Coast) wrote to the three eye specialists who were alleged to have been consulted by the memorialist at Mangalore. Subsequently the reply from Dr. Sekar was sent to the memorialist and he was asked to pay the fees claimed and to produce the necessary certificate. Dr. Prabu replied to say that he was not in Mangalore in February or March 1937. Dr. Fernandez did not reply at all. Subsequently the memorialist represented that the doctors cited by him may be examined at their places. It was for the memorialist to have produced necessary certificates from these doctors and it is too much to expect the Asst. Director to go to each doctor for purposes of recording his evidence.

(A) (P) 142 (P) 1839

b/ It is for orders whether the memorial will be summarily rejected or whether the Commission should be consulted.

The Memorial may be rejected

47

The Commission for Minorities.

RC
20.2.39 S.

24/2

Hm (Mg PRD) The M.P.S.C. may be consulted.

25.2.39

Please circulate
P.S
24.2.

Circd 24/2
Rec'd 25/2

CWO
28/2/39

To A.S.

A draft letter is submitted for approval.

Issue
RC
1.3.39

P.S.
28.2.39.

DEN
28/2/39

Letter to the Secretary, M.P.S.C., No.266.37-I/38-2, dated 1-3-39. p.29 c/f

Letter from the Secretary, M.P.S.C., No.327-C/39, dated 10-3-39. p.30 c/f

T.M. to the D.F. dated 16-3-39. p.4 c/f (Z)

~~Reply Postcopy of T.M. from D.F. dated 31-3-39.~~

Endt. from the D.F. Ref. No. Ref. 2232-C/38-6 dated 25-3-39. pp.31-32 c/f.

Post copy of T.M. from D.F. dated 31-3-39. p.5 c/f (Z)

To A.S.

The personal file of the teacher received from the D.F. may be sent to the Commission.

A draft letter is submitted for approval.

H 48

2. There seems to be no need necessity to send to the Commission the further representation from the memorialist at pp. 31-32 c.f.

Issue

RR 6/5/39

P.S. 3.4.39.

DEA 3.4.39)

1 c/f

Letter No. 26637-J/38-3, d. 5-4-39.

1-p c/f

Letter from secretary Mc. P.S.C., No. 327-C/39, dated 26-4-39.

To A.S.

Please see the letter from the Commission at pp. 36-37 c.f. For orders whether their recommendation will be accepted. If so, a draft order is submitted for approval.

(The delay in this deptt was due to non-receipt of the connected records in the first instance from the Asst. who furnished them after two references were issued).

Vide pp 27-28 CF & pp 1-3 of flag (Z).

P.S. 5.5.39.

DEA 5.5.39)

RR 6/5/39

[I want the office to explain the delay in some detail.]

I wants RR

A.S. 6.5.39.

D. C. 6/5

CWO 6/5/39

H. M. (Agt R.D.)

CWO 6/5/39

34/9/5 Date. Initials.

DRAFT FOR APPROVAL.

4e3

C.F. 15.

Dev. Deptt.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Fisheries – Memorial against stoppage of increment – Fernandez, L. – Teacher – Rejected.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the Memorialist, No. ~~2232-C/38~~ dated 16-5-1938. pp. 1-9 c.f.

G., 26637-VI/38 Letter from the D.F. ,, 2232-C/38-1, 1-10-1938. pp. 12 c.f.

" " from the Secretary, M.P.S.G. ,, 26637-I/38, 1-3-39 p. 39 c.f.

" " " " ,, 327-C/39 ,, 26-4-1939 pp. 36 37 c.f.

Order Ms. Resolution Rout. No. 1207, dated 8-5-1939.

pp. 1-9 c.f

With reference to his memorial dated 16-5-1938 addressed to the Govt. of Madras, L. Fernandez, Teacher, Fisheries School, Kasaundra, is informed that H.E. the governor of Madras declines to interfere.

2 The attention of the D.F is invited to paragraph 2 of the Commission's letter and he is requested to see that such delays do not occur in future.

P.S. 5-5-39.

pp. 36-37 c.f

5-5-39

pp. 36-37 c.f

In the memorialist (~~with~~ through the D.F. (~~with extracts from the Commission's~~ letter – para/ at p. 36 c.f.)

" D.F. (with copy of Commission's letter (as edited in pencil) and with records returned)

" Secretary, M.P.S.G. (with c.l.)

6/5/39

6/5/39

* List of records

(1) Personal file of the memorialist — (F)

(2) Director's file D. Dis 232-C/38, d. 17-3-38 — (G)

(3) Assistant Director's file D. Dis. 2328-F/37, d. 10-12-37. — (P)

(4) Proceedings of the Assistant Director, D. Dis. 2328-F/37, d. 10-12-37 (F)